

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Abraan Rene Ortiz,)	No. CV 11-626-TUC-FRZ (DTF)
Petitioner,)	ORDER
vs.)	
Charles L. Ryan, et al.,)	
Respondents.)	

Before the Court for consideration is the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 filed by Petitioner Abraan Rene Ortiz, and the Report and Recommendation of the Magistrate Judge, recommending the dismissal of the Petition.

Petitioner was convicted in state court of possessing drug paraphernalia and narcotic drugs for sale and sentenced to concurrent, enhanced presumptive terms of 3.75 and 15.75 years as a repeat offender with two or more prior felony convictions.

This matter was referred to Magistrate Judge D. Thomas Ferraro, pursuant to the provisions of 28 U.S.C. § 636(b), Rule 72, Fed.R.Civ.P., and Local Rules 72.1 and 72.2 of the Rules of Practice of the United States District Court for the District of Arizona, for further proceedings and report and recommendation.

Magistrate Judge Ferraro issued his Report and Recommendation, recommending that the Court enter an order dismissing the Petition for Writ of Habeas based on the findings that Claims 1(a), 3, 4(c), 5, 7(a), 7(b), and 7(c)(i) are procedurally defaulted; Claims 1(b) and 7(c)(ii) do not warrant relief under the Antiterrorism and Effective Death Penalty Act

1 (AEDPA) and should be dismissed on the merits; Claim 2 is not subject to federal habeas
2 review; Claims 4(a) and 4(b) are not cognizable and are procedurally defaulted; Claim 6 is
3 conclusory, fails to state a claim and is procedurally defaulted; Claim 7(d) is conclusory and
4 subject to dismissal for failure to state a claim; and Claim 8 fails to state a federal claim, is
5 not cognizable and is procedurally defaulted.

6 The Report and Recommendation sets forth the factual and procedural history of
7 Petitioner's state court proceedings and the convictions at issue and provides a thorough
8 analysis of the applicable legal standards of each of the eight claims alleged in the Petition.

9 The Report and Recommendation further advised that "[p]ursuant to Federal Rule of
10 Civil Procedure 72(b)(2), any party may serve and file written objections within fourteen
11 days of being served with a copy of the Report and Recommendation" and failure to timely
12 file objections may be deemed waived.

13 No objections to the Report and Recommendation were filed.

14 The Court finds, after consideration of the matters presented and an independent
15 review of the record herein, that the Report and Recommendation shall be adopted and the
16 Petition dismissed in accordance with the recommendations and findings set forth therein.

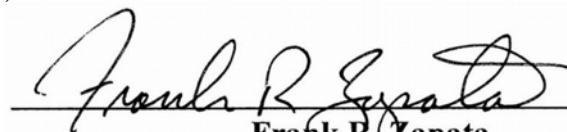
17 Based on the foregoing,

18 IT IS ORDERED that Magistrate Judge Ferraro's Report and Recommendation [Doc.
19 13] is hereby ACCEPTED AND ADOPTED as the findings of fact and conclusions of law
20 by this Court;

21 IT IS FURTHER ORDERED that the Petition for Writ of Habeas Corpus is hereby
22 DISMISSED;

23 IT IS FURTHER ORDERED that judgment be entered accordingly.

24
25 DATED this 16th day of August, 2012.

26
27 
28 Frank R. Zapata
Senior United States District Judge